



STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT
STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM
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May 15, 2013

TO: Teresa Parsons, SPHR
Director's Review Program Supervisor

FROM: Kris Brophy, SPHR
Director's Review Program Investigator

SUBJECT: Marion Carey v Washington State Department of Transportation (WSDOT)
Allocation Review Request ALLO-12-051

Director's Determination

As the Director's designee, I carefully considered all of the documentation in the file, including the exhibits presented during the Director's review process and the verbal comments provided by both parties. Based on my review and analysis of Ms. Carey's assigned duties and responsibilities, I conclude her position should be reallocated to the Transportation Planning Supervisor classification.

Background

On June 12, 2012, LNI Human Resources (LNI-HR) received Ms. Carey's Management Position Description form, requesting that her position be reallocated to the Transportation Planning Supervisor (TPS) classification (Exhibit B-2).

LNI-HR, conducted a position review and by memorandum dated August 23, 2012, notified Ms. Carey that her position was properly allocated to the Transportation Planning Specialist 5 (TPS 5) classification (Exhibit B-1).

On September 14, 2012, the Director's Review Program received Ms. Carey's Request for a Director's Review form appealing DOT's reallocation determination (Exhibit A-1).

On April 2, 2013, I conducted a Director's review conference. Present during the conference were Marion Carey and Jennifer Martin, Human Resource Consultant, WSDOT.

During the review conference Ms. Martin agreed to conduct a Willis Point Factor evaluation of Ms. Carey's position. Ms. Martin conducted an evaluation of Ms. Carey's position and on April 19, 2013 submitted her response indicating that she evaluated Ms. Carey's position at 506 points. Ms. Carey submitted a final response to Ms. Martin's additional information on May 2, 2013. This information has been added to the record and incorporated as exhibits herein.

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Duties and Responsibilities

Ms. Carey works in the headquarters' Environmental Services Office and manages the agency's Fish and Wildlife Program. Ms. Carey indicates that her primary duties include directing the development and implementation of statewide policy related to minimizing impacts to wildlife and habitats from construction, operations and maintenance activities. Ms. Carey works to ensure compliance with the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) which includes the development and implementation of statewide programmatic approaches to ensure compliance. Ms. Carey directs the development of statewide policy concerning major fish and wildlife issues, assists agency staff with projects with their ESA consultations, managing operations, and being a technical matter expert and overseeing technical training on fish and wildlife policies and guidance.

Mr. Paul Wagner, Biology Branch Manager, is Ms. Carey's immediate supervisor. The information he provided to Ms. Martin during her review is noted in exhibit B-4. Ms. Martin indicates in her notes that Mr. Wagner agrees that Ms. Carey's description of her assigned work activities is accurate and complete.

The duties and responsibilities Ms. Carey describes in the Management PDF (Exhibit B-2) for her position are as follows:

- 40% I am accountable for developing and implementing statewide policy related to minimizing construction, maintenance and operational impacts to species listed under the ESA, GBEP, MMPA and MBTA.
- 15% I am accountable for development and implementation of statewide programmatic approaches to the ESA and MMPA which help reduce project costs and delays.
- 15% I am accountable for the development of statewide policy concerning major fish and wildlife issues such as habitat connectivity and wildlife vehicle collisions, representing WSDOT in coordination with outside agencies on these topics.
- 15% I am accountable for providing training to WSDOT staff, local agency staff and consulting biologists on new policies and guidance.
- 5% I am accountable for timely and effective communication and coordination with Biology Programs Branch Manager, (Paul Wagner), ESO Director (Megan White), region and mode environmental biologists, Maintenance and Operations, and Washington State Ferries on policies and issues concerning ESA, MMPA, MBTA, and GBEP compliance.

- 5% I am accountable for managing the development and performance of 3 staff in the Fish and Wildlife Program.
- 5% I am accountable for the management and oversight of a biennial operating budget of \$885,600.

Ms. Carey works with an Interagency Program Management Team (PMT). She states in her comments that the team is comprised of a group of managers from WSDOT, Federal Highways Administration, US Fish and Wildlife Service, and NOAA Fisheries which work together to facilitate the movement of WSDOT projects through section 7 consultations under the Endangered Species Act. The PMT has worked together since 2004 to create a variety of multi-agency guidance that facilitates the appropriate analysis for completing ESA consultation.

Summary of WSDOT's Reasoning

WSDOT asserts Ms. Carey's duties best match the TPS 5 level class. In her written response following the review conference, Ms. Martin indicated that she evaluated Ms. Carey's position at 506 points using the Willis Point Factor evaluation system. However, Ms. Martin asserts that Ms. Carey's duties do not meet the criteria of the TPS class on the basis of the following:

Position 00595 has been reviewed using the Willis Point Factor system, which shows the position fits into the point standard defined for a Transportation Planning Supervisor (442 – 630). However, WSDOT respectfully affirms the best fit for the duties of the position continues to be within the Transportation Planning Specialist 5 (TPS-5) classification, as outlined below.

- There continues to be no significant change in duties from the position description on file from 2010 and the submitted position description.
- The duties continue to meet both criteria for a TPS-5, as a supervisor of a functional organization, and as a consulting expert (excerpts from class specification provided below).

Supervisory Criteria

As a supervisor of a functional organization, directs permanently assigned planning specialists and others with responsibility for development of work programs, preparation of budget, determining scope of studies and investigations, objectives to be realized and completion target dates for programs and projects.

Consulting Expert Criteria

A consulting expert at this level directs project studies involving total system(s) such as rail system, highway system, public transportation, etc. and varied disciplines and regularly provides presentations and guidance to department management, local governmental units, or private operations.

- The nature of the duties does present multiple opportunities for interfacing with the appointing authority of the office. However, this is not a requirement of the position; this position could interface more heavily with the manager (WMS-3) and the same outcomes and objectives could be realized.

- Although comparison of similar positions is not allocating criterion, it is useful in gaining a better understanding of the duties and level in which they are performed at. Organizationally, the TPS-5 classification is consistent with the other Program Managers within the office (see organizational chart). Each Program Manager is responsible for an Environmental law/area and directs development and implementation of policy relative their program area, interfaces with internal and external stakeholders, as well as other state and federal agencies, and is accountable for their budgets. All have state and federal counterparts they work with relative to their areas, and have similar decision making authority to each other. The duties are both strategic and tactical in nature, which would be expected at the TPS-5 level with oversight for the respective program area. One exception is the Storm water and Watersheds Program Manager position which was reclassified as a Transportation Planning Supervisor in 2011. That reclassification was based, in part, on a significant change (increase) in duties as well as the significantly larger financial and supervisory scope for the position.
- Relative to the assignment with the Project Management Team (PMT), the appointing authority confirms they are present at these meetings, and the meetings consist of a minor amount of time. These meetings are a coordinating body with other agencies for design and process. The expectation is Marion would provide valuable input and feedback to these meetings, along with the appointing authority, but would not be tasked as a sole decision maker in affecting change.

For these reasons, WSDOT asserts Ms. Carey's position is properly allocated to the TPS 5 level class.

Summary of Ms. Carey's Perspective

Ms. Carey asserts her position has responsibility to develop and implement statewide policy. Ms. Carey states in her comments that over the past five years her role and the level of responsibility in working with the PMT to develop and implement guidance has increased from providing technical expertise and attending meetings on an as needed basis to becoming influential in determining what guidance needs to be developed and also facilitating its development. Ms. Carey contends her work now has a more proactive approach looking for statewide solutions for problems, which is different from the other TPS 5 positions in the Environmental Services Office. She asserts those positions focus on project specific solutions and do not regularly work with outside agencies to develop agency wide solutions to common problems that projects may have.

In response to Ms. Martin's follow-up information, Ms. Carey argues the following as summarized below:

1. I disagree with the rating for Knowledge and Skills that has been provided... [and] believe that I function at a Level F. Which is defined as: "An advanced level of understanding is required in a specialized or technological field or competence in multiple specialized fields which may include management systems and techniques."

My position requires me to have an advanced level of understanding, on a large number of topics.... In order to teach the BA authors class and mentor the WSDOT biologists, I can't just be competent in these areas; I have to have an extensive understanding. This includes understanding diverse topics ranging from the effects of storm water on listed fish to the effects of underwater sound on marine mammals, to knowing what types of culverts and bridges will function well as wildlife crossings.

2. The scope of duties and areas of responsibility in my program are much broader in coverage than other programs. The areas of technical expertise are also much broader. Some program managers only cover one or two areas – i.e. wetlands and wetland monitoring or fish passage and stream restoration, while my program's core functions include but are not limited to wildlife vehicle interactions, general wildlife issues, ESA issues, MBTA issues, habitat connectivity, implementation of a I-4 program on habitat connectivity, regulatory compliance with ESA and other federal and state regulations, training both general and highly specialized BA authors training, a consultant qualification program, policy development, research project development and monitoring.
3. One of the criteria for the TPS Supervisor position is that you must serve as a planning section supervisor within an operation branch, which I am.
4. And finally, my office management does support this request for reallocation as Jennifer has documented.

In total, Ms. Carey asserts her overall level of responsibility and decision-making authority reach the Transportation Planning Supervisor class. Ms. Carey asserts her position should be allocated to that class.

Comparison of Duties

When comparing the assignment of work and level of responsibility to the available class specifications, the Class Series Concept (if one exists) followed by the Definition and Distinguishing Characteristics are primary considerations. While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification.

Comparison of Duties to the Transportation Planning Specialist 5

The Definition for the Transportation Planning Specialist 5 states in relevant part:

Supervises a functional organization responsible for ongoing programs and reports to a WMS Band 3, Transportation Planning Supervisor 1 equivalent or higher classification; or performs as a consulting expert with assignments regarding Statewide application involving total systems or programs, applying one or more disciplines, with responsibility for several significant transportation problem areas.

The Distinguishing Characteristics for this class state:

As a supervisor of a functional organization, directs permanently assigned planning specialists and others with responsibility for development of work programs, preparation of budget, determining scope of studies and investigations, objectives to be realized and completion target dates for programs and projects;

Problems, modes and disciplines are enumerated in the Transportation Planning Specialist 3 specification;

A consulting expert at this level directs project studies involving total system(s) such as rail system, highway system, public transportation, etc. and varied disciplines and regularly provides presentations and guidance to department management, local governmental units, or private operations.

...

[Emphasis added]

This class encompasses the work and generally describes the level of responsibility assigned to Ms. Carey's position. Ms. Carey supervises a functional organization consisting of the Fish & Wildlife Program within the ESO headquarters. Ms. Carey supervises assigned planning specialists and is responsible for the ongoing development and operation of that program. This includes development and statewide implementation of the Endangered Species Act for the agency, oversight of the program's budget, and determining the overall scope and completion of studies and investigations relative to the Fish & Wildlife program. Additionally, Ms. Carey reports to a WMS Band 3 manager, and also provides expert level consultation to internal staff and external State and Federal agencies and programs in conjunction with WSDOT construction and other projects.

However, while the general scope of her position meets the requirements of this class, there is a unique class which addresses the level of responsibility assigned to her position. Therefore, based on the unique qualifiers of that class, Ms. Carey's position should not be reallocated to the TPS 5 level class.

Comparison of Duties to Transportation Planning Supervisor

The Definition for the Transportation Planning Supervisor class states:

Serves as a planning section supervisor within an operational branch, e.g., Travel Data, Systems Planning, Economic Planning, etc.

The Distinguishing Characteristics for this class state:

While the "definition" generally describes the positions allocated to this classification, the **sole criteria for allocating mid management transportation planning positions is the point value assigned to the position.**

Positions at this level are allocated only on the basis of point values as reflected in the Transportation Mid Management point factor evaluation system for transportation planning personnel. Point values are based on knowledge and

skills, mental demands and accountability. The point spread for positions at this level is 442 630 points.

[Emphasis added]

It is undisputed that Ms. Carey's position meets the primary allocating criteria of the definition of this class of serving as a planning section supervisor within an operational branch of WSDOT.

Additionally, as stated in the Distinguishing Characteristics of this class, the sole criteria for allocating to this class is based only on the point value score of the position based on an internal evaluation of the knowledge and skills, mental demands, and accountability of the position. Ms. Martin evaluated and scored Ms. Carey's position at 506 points which falls within the 442 and 630 point spread.

When there is a definition that specifically includes a particular assignment and there is a general classification that has a definition which could also apply to the position, the position will be allocated to the class with the definition that includes the position Mikitik v Depts. of Wildlife and Personnel, PAB No. A88-021 (1989).

Therefore, on the basis of the point factor evaluation assigned to Ms. Carey's position, her position should be reallocated to the Transportation Planning Supervisor class.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, WA 98504-0911. An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to the Washington personnel resources board. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The PRB Office is located on the 4th floor of the Insurance Building, 302 Sid Snyder Avenue SW, Olympia, Washington, 98501-1342. The main telephone number is (360) 902-9820, and the fax number is (360) 586-4694.

If no further action is taken, the Director's determination becomes final.

c: Marion Carey, WSDOT
Jennifer Martin, WSDOT
Lisa Skriletz, SHRD

Enclosure: List of Exhibits

MARION CAREY v DOT

ALLO-12-051

List of Exhibits

A. Marion Carey Exhibits

1. Director's Review Form received September 14, 2012
2. August 23, 2012 DOT allocation determination letter
3. November 8, 2012 written argument for Director's review
4. Document listing website locations with links to Guidance Documents – with explanation of duties

Exhibit submitted after review conference

5. Email from Marion Carey to Kris Brophy enclosing:
 - a) Response to Ms. Martin's Willis review of Marion Carey's position
 - b) List of core functions within the Fish and Wildlife Program

B. DOT Exhibits

1. August 23, 2012 DOT allocation determination letter from Jennifer Martin to Marion Carey
2. June 2012 Position Description with organizational chart
3. Previous PDF, February 2010
4. Additional information from Appointing Authority and Business Manager
5. Additional information from Marion Carey
6. DOP Transportation Planning Specialist 5 Class Specification, 543I
7. DOP Transportation Planning Supervisor Class Specification, 543J

Exhibits submitted after review conference

8. Email from Jennifer Martin to Kris Brophy enclosing:
 - a) Response to the point factor evaluation for Marion Carey's position titled, "Addendum to Willis Point Factor Review, Position 00595"
 - b) Willis Point Factor Evaluation for Marion Carey's position.